
Transportation Committee

SSB 6785

Brief Description: Modifying the administration of fuel taxes.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Jacobsen, Swecker, Haugen and Benson; by request of Department of Transportation and Department of Licensing).

Brief Summary of Substitute Bill

- Eliminates language indicating the State's fuel tax is imposed on the end user.
- Removes references to retailers, as well as refunds and credits available to, or tax liability of, licensed fuel distributors.
- Establishes time frames for tribal fuel compacts.
- Defines licensees as fuel suppliers, importers, exporters, blenders, or international fuel tax agreement (IFTA) license holders, for the incidence of taxation.
- Provides technical cleanups to existing fuel tax statutes.

Hearing Date: 2/20/06

Staff: Jerry Long (786-7306).

Background:

Washington's fuel tax statutes declare that motor vehicle and special fuel taxes are imposed on the end user. Statute also directs fuel taxes be collected at the time the fuel is removed from the terminal rack, with those in the chain of distribution above the retailer being allowed certain credits and required to keep records showing the tax has been passed down the distribution chain. However, retailers are not allowed those same credits, and are not required to pass on the tax to the consumer, or required to show receipts indicating the tax has been paid. Also, there is no enforcement at the user level for motor vehicle fuels to determine if the tax was paid by the end user.

On January 4, 2006, the U.S. District Court for the Western District of Washington entered an order in favor of two plaintiff tribes, the Squaxin and Swinomish, declaring that the legal incidence of Washington's motor vehicle fuel tax is on the retailer. Under federal law, absent explicit Congressional authorization, states are prohibited from imposing taxes on a tribe or its

members for sales made on tribal lands. The order, therefore, states that Washington's motor vehicle fuel taxes may not be applied to motor vehicle fuels delivered to, received by, or sold by any retail fuel station that is owned by a tribe, tribal enterprise, or tribal member and located on tribal lands. Because the court found that the Squaxin and Swinomish meet the above criteria, the court entered an injunction against the collection of Washington's motor vehicle fuel taxes for fuels delivered to, received by, or sold by the plaintiffs' retail stations.

Summary of Bill:

Current statutory language declaring that motor vehicle and special fuel taxes are imposed on the end user are eliminated from state motor vehicle and special fuel tax statutes. References to retailers, as well as refunds and credits available to, or tax liability of, licensed fuel distributors are also removed. Amendatory language is included to define licensees as fuel suppliers, importers, exporters, blenders, or international fuel tax agreement (IFTA) license holders, and explicitly states that the incidence of taxation be borne exclusively by these entities.

The Department of Licensing is authorized to enter into fuel tax compact agreements with tribes that currently do not have such compacts within one year of the effective date of the bill, or within one year of the opening of the first tribally licensed retail station. A formula for disbursing fuel tax refunds to tribal entities is based on average, annual gallons consumed, number of enrolled tribal members on or near the reservation, and the current fuel tax rate. New sections are added to the motor fuel and special fuel tax chapters requiring tribal licensees and retailers pass the tax through to end users as part of the selling price.

Certain technical amendments are also addressed including: moving the racing fuel exemption from the special fuels to the motor fuels chapter, inserting IFTA provisions, and moving compliance language to more appropriate subsections of the two fuel tax chapters.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.